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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,828	03/08/2001	Joseph B. Rissin		3652

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EXAMINER

BRITTAIN, JAMES R

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 01/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/800,828

Applicant(s)

RISSIN ET AL

Examiner

James R. Brittain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,9,10 and 14-17 is/are rejected.
- 7) ☒ Claim(s) 1-8 and 11-13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other:

**DETAILED ACTION**

***Claim Objections***

Claim 1 is objected to because of the following informalities: The use of capital letters within the body of the claim after the first word is improper. The claim should be written in the style of claim 9 without capital letters in the body of the claim. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Each claim depends from claim 9. This renders many terms as lacking clear antecedent basis. Claim 15 should depend from claim 14, while claims 16 and 17 should depend from claim 15. This solution is comparable to the construction of claims 11-14. It is assumed that applicant meant to have these claims depend in this manner and the claims are interpreted in this light.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tobita (US 5669239).

Tobita (figures 1, 4) teaches jewelry clasp structure including a base plate 10 with an opening 11 therein for a jewelry post, two facing spring fingers 9 separated by slits 12 so as to frictionally engage the jewelry post and two finger tabs 10a to aid in removal of the jewelry clasp. The engagement with the post inherently includes friction.

Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Burkett (US 4630453).

Burkett (figure 1) teaches jewelry clasp structure including a base plate 3 with an opening 11 therein for a jewelry post, two facing spring fingers 2 extending from the base plate so as to frictionally engage the jewelry post and two finger tabs 5 extending from the base plate 3 via the wings 4 to aid in removal of the jewelry clasp.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tobita (US 5669239) in view of either Burkett (US 566239) or Brumbach (US 1201549).

Tobita (figures 1, 4) teaches jewelry clasp structure including a circular base plate 10 with an opening 11 therein for a jewelry post, two facing spring fingers 9 separated by slits 12 so as to frictionally engage the jewelry post and two finger tabs 10a to aid in removal of the jewelry clasp. The finger tabs are wider than the spring fingers. The engagement with the post inherently includes friction. The difference is that the gripping tabs are shorter than the spring fingers. However, Burkett (figure 1) teaches jewelry clasp structure including a base plate 3 with an opening 11 therein for a jewelry post, two facing spring fingers 2 extending from the base plate so as to frictionally engage the jewelry post and two finger tabs 5 extending from the base plate 3 via the wings 4 to aid in removal of the jewelry clasp. The gripping tabs extend beyond the spring fingers so as to be more accessible. Similarly, Brumbach (figure 2) suggests placing extending gripping tabs 5 which extend further than the spring fingers engaging the post so as to be more accessible. It would have been obvious to modify the jewelry clasp of Tobita so that the gripping tabs extend further than the spring fingers in view of Burkett or Brumbach suggesting such structure so as to be more accessible.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Tobita (US 5669239) or Burkett (US 4630453) taken in view of Rissin (US 5906114).

Tobita (figures 1, 4) teaches jewelry clasp structure including a base plate 10 with an opening 11 therein for a jewelry post, two facing spring fingers 9 separated by slits 12 so as to frictionally engage the jewelry post and two finger tabs 10a to aid in removal of the jewelry clasp. The engagement with the post inherently includes friction.

Similarly, Burkett (figure 1) teaches jewelry clasp structure including a base plate 3 with an opening 11 therein for a jewelry post, two facing spring fingers 2 extending from the base plate so as to frictionally engage the jewelry post and two finger tabs 5 extending from the base plate 3 via the wings 4 to aid in removal of the jewelry clasp.

The difference is that each lacks a stabilizer. However, Rissin (figures 4a, 4b) teaches that it is desirable to add a stabilizer to a frictionally securable jewelry clasp so that earrings of greater weight and size can be worn comfortably.

It would have been obvious to modify the jewelry clasps of either Tobita or Burkett so that it includes a stabilizer in view of Rissin suggesting that it is desirable to add a stabilizer to a frictionally securable jewelry clasp so that earrings of greater weight and size can be worn comfortably.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tobita (US 5669239) in view of either Burkett (US 566239) or Brumbach (US 1201549) as applied to claim 9 above, and further in view of Rissin (US 5906114).

Further modification of the earring of Tobita such that it includes a stabilizer would have been obvious in view of Rissin (figures 4a, 4b) suggesting that it is desirable to add a stabilizer to a frictionally securable jewelry clasp so that earrings of greater weight and size can be worn comfortably.

#### ***Allowable Subject Matter***

Claims 2-8 and 11-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 15-17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents of Yinger (US 1009124), Ballou, Jr. et al. (US 2308412), and Kohl et al. (US 6134917) teach pertinent fastener structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on Monday - Friday from 5:30 to 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on 703-308-3179. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



James R Brittain  
Primary Examiner  
Art Unit 3626

JRB  
January 22, 2002